PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 192 LCA 62, dated Bangalore, 14th December 1962

Ordered that the Report of the Select Committee on the Customs Bill, 1962 (56Aof 1962), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 15th November 1962, be republished in the *Mysore Gazette*, for general information

By Order and in the name of the Governor of Mysore,

26 S. SRIPADARAJ, *Under Secy. to Govt., L.D.*

LOK SABHA

The following report of the Select Committee on the Bill to consolidate and amend the law relating to customs was presented to Lok Sabha on the 15th November, 1962 .—

Composition of the Select Committee

Shri S. V Krishnamoorthy Rao —*Chairman*

MEMBERS

2 Shri Ramachandra Vithal Bade
*3. Shri G Basu

*Shri G. Basu did not attend any sitting of the Committee after the Election Tribunal declared his election to Lok Sabha void w e f the 11th August, 1962.

4 Shri Tridib Kumar Chaudhuri
5 Shri R Ramanathan Chettiar
6 Shri N T. Das
7. Shri Morarji Desai
8 Shri B D Deshmukh
9 Shri Vishwanath Singh Gahmari
10. Shri J. N. Hazarika
11 Shri Prabhu Dayal Himatsingka
12 Shri Hari Vishnu Kamath
13 Shri Narendrasingh Mahida
14. Sardar Surjit Singh Majithia
15 Shri Krishnan Manoharan
16. Shri Bakar Ali Mirza
17 Shri Mahesh Dutta Misra
18 Shri R R. Morarka
19 Shri Shankarrao Shantaram Moro
20. Shrimathi Savitri Nigam
21 Shri Ghanshyamlal Oza
22 Shri Prabhat Kar
23. Shri A. V. Raghavan
24. Shri Shivram Rango Rane
25 Shri R V Reddiar
26 Shri K V Ramakrishna Reddy
27. Shri M Shankaraiya
28 Dr L M Singhvi
29 Shri Sumat Prasad
30 Shri Bali Ram Bhagat

DRAFTSMAN

Shri G. R Bal, *Additional Draftsman, Ministry of Law*
Shri C J. Venkatachari, *Deputy Draftsman, Ministry of Law.*

SECRETARIAT

Shri A L. Rai—*Deputy Secretary*

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill* to consolidate and amend the law relating to customs was referred, having been authorised to submit the report on their behalf, present their report, with the Bill as amended by the Committee annexed thereto.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 15th June, 1962

2 The Bill was introduced in Lok Sabha on the 15th June, 1962 The motion for reference of the Bill to a Select Committee was moved by Shri B R Bhagat, Deputy Minister in the Ministry of Finance, and the 19th June, 1962 and was adopted on the same day

3 The Committee held thirteen sittings in all

4 The first sitting of the Committee was held on the 21st June, 1962 to draw up a programme of work The Committee at this sitting decided to hear evidence from associations, etc desirous of presenting their suggestions or views before the Committee and to issue a press communique, inviting memoranda for the purpose The Chairman was authorised to decide, after examining the memoranda submitted by the associations as to which of them should be called upon to give oral evidence before the Committee

5 45 memoranda/representations on the Bill were received by the Committee from different associations, public bodies and individuals as mentioned in

6 At their Second to Seventh sittings held on the 30th and 31st July, 1st, 2nd and 11th August, and 1st September, 1962, respectively, the Committee heard the evidence given by the representatives of nineteen associations, etc , and one individual

7 The Committee have decided that the evidence given before them should be laid on the Table of the House *in extenso*

8. At their Sixth sitting, it was suggested that the Committee might undertake an on-the-spot study tour of some of the Customs Offices to acquaint themselves with their working At their Seventh sitting, the Committee was informed that the proposal had been discussed with the Speaker who was agreeable to such a tour being undertaken by a small sub-Committee Accordingly, a sub-Committee consisting of ten members visited Calcutta from the 10th to the 13th October, 1962

9 During their stay at Calcutta, the sub-Committee visited the various departments of the Customs Organisation located in the Customs House, Dum Dum Airport, docks and jetties at the Calcutta port and land customs check posts at the Petropol Road and the Petropol Railway Station The sub-Committee looked into the working of these establishments and also questioned in detail the authorities and others concerned whom they met for eliciting first hand information on the provisions of the Bill

10 The Committee considered the Bill clause by clause at their Eighth to Twelfth sittings held from the 15th to 19th October, 1962

11. The Report of the Committee was to be presented by the last day of the first week of the Second Session As this could not be done, the Committee requested for extension of time on the 8th August, 1962 which was granted upto the last day of the first week of the Third Session

12 The Committee considered and adopted the report on the 9h November, 1962

13 The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

14 *Clause* 11 —The Committee are of the view that the purposes mentioned in sub-clause (2) of the clause for which importation or exportation of goods may be prohibited should specifically include the implementation of any treaty, agreement or convention with any country.

The other amendment made in the clause is of a drafting nature

The clause has been amended accordingly.

15. *Clause* 13 —The Committee have given thought to the clause and are of the opinion that when the imported goods are not under the importer's control, he should not be required to pay the duty on any goods that may be pilferred before the Customs Officer makes an order for clearance of the goods

The clause has been amended accordingly

16 *Clause* 14 —The Committee consider that the nomenclature 'normal price' may cause some difficulty in determining the value of goods for the purposes of assesment They, therefore, feel that the word 'normal' should be dropped and other drafting changes may be made.

The clause has been amended accordingly.

17 *Clause* 23 —The Committee feel that provision regarding sale in sub-clause (2) may be transferred to clause 48 which deals with similar matters

The other amendments to this clause are of a consequential or drafting nature.

The clause has been amended accordingly

18. *Clause* 28 —The Committee are of opiniou that some time limit should be laid down with in which a notice may be served upon

an importer or an exporter, as the case may be, for payment of duty not levied, short-levied or erroneously refunded by reason of collusion or wilful mis-statement or suppression of the facts on his part, and they feel that a period of five years would be adequate for this pupose

The class has been amended accordingly

The other amendment is of a drafting nature

19 *Clause* 29 —The Committee feel that specific provisions should made in the Act itself regarding action to be taken by the person in charge of a vessel or an aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a Customs port or Customs airport

The clause has been amended accordingly

20 *Clause* 30.—The Committee consider that as in the Sea Customs Act, 1878, a period of 24 hours after the arrival of the conveyance may be allowed for the delivery of the import manifest or import report

The clause has been amended accordingly.

21 *Clause* 36 —The amendment made in the clause is clarificatory in nature

22 *Clause* 41 —The Committee are of opinion that the export manifest or export report may be allowed to be delivered after the departure of the conveyance on the lines of the provision in the Sea Customs Act, 1878, but the period within which such manifest, etc may be delivered may be increased to seven days from the existing five days.

The clause has been amended accordingly.

23. *Clause* 47 —The clause has been re-drafted to make the intention clear.

24. *Clause* 48.—The amendment to the clause is consequential to the amendment made to clause 23 (2).

The Committee feel that the words 'arms' and 'ammunition' should be defined as in the Arms Act, 1959

The clause has been amended accordingly.

The other amendment is of a drafting nature

25 *Clause* 51 —The clause has been re-drafted to make the intention clear

26 *Clause* 74.—The Committee consider that the drawback allowable on re-export of duty paid goods should be ninety-eight per cent instead of ninety-five per cent

The clause has been amended accordingly

27 *Clause* 88 —The Committee are of the view that the Act itself should provide on the lines of the international agreements that the whole of the duty should be allowed as drawback on fuel and lubricating oil taken on board any foreign going aircraft as stores

The clause has been amended acoordingly

28 *Clause* 101 —The Committee feel tbat this clause should not specifically apply to precious stones other than diamonds

29 *Clause* 102 —The Committee are of the opinion that search of persons under clause 100 and clause 101 should be conducted in the presence of two more witnesses

They also feel that when a person is to be taken to a gazetted officer of Customs or magistrate, that should be done without unnecessary delay

The other amendment is of a drafting nature.

The clause has been amended accordingly

30 *Clause* 104 —The Committee are of the view that an officer of Customs arresting a person under the clause should have the power to release the arrested person on bail or otherwise similar to the power conferred on the officer-in-charge of a police station under the Code of Criminal Procedure, 1898, so as to obviate the necessity of detaining an arrested person till he can be taken to a magistrate

The Committee feel that sub-clause (3) being merely a repetition of the provisions of the Criminal Procedure Code should be omitted

The Committee are also of the opinion that the offences under this Act should be non-cognizable as at present although the maximum punishment in respect of certain offences is being enhanced to five years imprisonment

The clause has been amended accordingly.

31 *Clause* 105 —The Committee feel that the record containing the grounds of belief, etc , to be maintained under the provisions of Section 165 of the Code of Criminal Procedure, 1898 should be forwarded to the Collector of Customs and not to the

magistrate in order to enable the former to keep proper control over the Customs officers authorising search of premises

The clause has been amended accordingly

32 *Clause* 107 —The Committee feel that sub-clause (c) should be omitted

The clause has been amended accordingly

33 *Clause* 108 —The Committee consider that the power to summon persons to give evidence or produce documents should be conferred only on a Gazetted Officer of Customs

The clause has been amended accordingly

34 *Clause* 110 —The Committee are of the view that when any goods are seized, proceedings in the nature of a show cause notice should be started within six months of the seizure but this period may on sufficient cause being shown be extended by the Collector of Customs for a further period of six months If the show cause notice is not issued within the specified period, the goods should be returned to the person from whom they were seized.

The Committee also feel that in order to obviate any hardship or inconvenience to a person from whom any documents are seized, he should be entitled to make copies thereof or take extracts therefrom.

The clause has been amended accordingly

35 *Clause* 112 —The Committee feel that sub-clause (a) as drafted may not be comprehensive enough to bring within its scope all persons who abet the doing or omission of any act which would render any goods liable to confiscation under clause 111 This sub-clause has, therefore, been omitted, and an addition made to sub-clause (b) to cover such abettors

The amendment to sub-clause (c) is of a clarificatory nature

They further feel that the penalty under the clause should be enhanced from three times the value of the goods or one thousand rupees whichever is the greater, to five times the value of the goods or one thousand rupees, whichever is the greater

The clause has been amended accordingly

36 *Clause* 113 —Item (k) of the clause has been re-drafted to provide that goods cleared for exportation under a claim for drawback would be liable to confiscation if they are not loaded for exportation on account of any wilful act negligence or default of

the exporter or after having been loaded are unloaded without the necessary permission.

37 *Clause* 114.—The clause has been amended on the lines of the amendments made to clause 112.

38. *Clause* 118.—It was represented to the Committee that the clause, though identical with an existing provision in the Sea Customs Act, 1878, would cause hardship in certain cases where the smuggled goods may after importation happen to be kept in a package along with non-smuggled goods The Committee noted that essentially the intention was to apply the clause only to such other goods as are imported in a package along with the goods liable to confiscation.

The clause has been re-drafted to cover such goods only.

As regards exports, the amendment is of drafting nature only, re-casting the provision on the same lines as for imports

39. *Clause* 120 —The Committee feel that since the provision regarding transfer of onus of proof was contained in clause 123, this clause should not also transfer to the owner the onus of proving that a part of the goods has not been smuggled. The Committee were, therefore, of opinion that where a case falls under the proviso to sub-clause (2), only such part of the goods the value of which is equal to the value of the smuggled goods should be liable to confiscation.

The clause has been amended accordingly

40 *Clause* 123 —The Committee are of the opinion that precious stones other than diamonds should not be specifically included in this clause

The clause has been amended accordingly

41. *Clause* 125 —The amendment made to the clause is of a clarificatory nature

42 *Clause* 128 —The Committee are of the view that appeals against the orders of officers of Customs below the rank of Collector should be heard by Appellate Collectors of Customs who should not be entrusted with any other functions under this Act

The Committee are also of the view that the power to enhance penalty or fine in lieu of confiscation or to confiscate goods of greater value should not vest in the Appellate Collector of Customs

The other amendments are consequential to the amendment to clause 28.

The clause has been amended accordingly

43 *Clause* 130.—The Committee feel that the Collectors of Customs should not be vested with the powers of revision

The other amendment is consequential to the amendment to clause 28

The clause has been amended accordingly.

44 *Clause* 131 —The Committee are of the opinion that the Central Government should have the power to revise of its own motion any order in appeal or an order in revision The Committee also consider that the Central Government should have the power to enhance duty or penalty or fine in lieu of confiscation, etc

The clause has been amended accordingly

45 *Clause* 135.—The Committee consider that in order to check large-scale smuggling, deterrent punishments are called for. They are, therefore, of the view that where the offence concerns any goods to which clause 123 applies and the market-price of which exceeds one lakh of rupees, the imprisonment may extend to five years and that except for special and adequate reasons to the contrary, the minimum punishment in such cases should be six months' imprisonment.

The clause has also been revised to make it clear that persons who in any manner deal with smuggled goods after these have been imported shall be liable to prosecution if such persons had knowledge or reason to believe that the goods were smuggled goods

46 *Clause* 136 —The Committee feel that among the offences by Customs Officers, the offence of illegal search and illegally authorising another officer to search premises, should be included

They further feel that punishment for such offences should be more severe Accordingly, a term of imprisonment which may extend to six months has been provided for

The clause has been amended accordingly.

47 *Clause* 138 —The amendment to the clause is consequential upon re-draft of clause 135.

48 *Clause* 140 —The Committee consider that, as in other Acts, the word 'and' occurring in the proviso to sub-clause (1) should be substituted by the word 'or'

49 *Clause* 142 —The Committee are of the view that the manner of recovery provided in this clause should also be applicable where the terms of any bond, etc, executed under this Act, provide a contractual obligation that the amount of the bond may be so recovered

The clause has been amended accordingly

50 *Clause* 144 —The Committee are of the view that a sample should be restored to the owner, if practicable, without a request being made to that effect by the owner They further consider that in case the duty on the sample consumed or destroyed during the course of any test or examination is not less than five rupees, such duty should not be charged

The clause has been amended accordingly

51 *Clause* 145 —The amendment made in the clause is clarificatory in nature

52 *Clause* 147 —The Committee feel that it should be clarified that if the owner, importer or exporter proves to the contrary, the presumption under sub-clause (2) should not be raised against him

They also feel that it should further be provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than any wilful act, negligence or default of the agent, such duty should not be recovered from the agent unless in the opinion of Assistant Collector of Customs the same cannot be recovered from the owner, importer or exporter

The clause has been amended accordingly

53 *Clauses* 150 *and* 153 —The amendments made in the clauses are of a clarificatory nature

54 *Clause* 159 —The Committee are of opinion that notifications issued under clause 43 should also be laid on the Table of both Houses of Parliament

The clause has been amended accordingly

55 The recommendations of the President have been obtained under Article 117 (1) of the Constitution in respect of the amendments made in the Bill

56 The Select Committee recommend that the Bill as amended be passed

NEW DELHI, S V KRISHNAMOORTHY RAO,

The 9th November, 1962 *Chairman,*
Select Committee.

MINUTES OF DISSENT

I

We regret we cannot agree with the majority report of the Select Committee on the following clauses

This is a new legislation on land, air and sea customs and in order to check smuggling the law is to be made more drastic but in our anxiety to do this we should take care that the innocent traders may not be unnecessarily harassed By keeping this point of view in our mind we are giving this minute of dissent

(1) Clause 11 (v) should be deleted This is giving too much powers to the Customs authorities Similarly sub-clauses (e), (j) and (n) should be deleted as it overlaps the provisions of other enactments

(2) Clause 14 requires some change The importer loses his goods as well as he is charged with duty for the same

(3) In clause 105 the Customs Officer should not be authorised to make search without obtaining the search warrant from a Magistrate Therefore, the provision should be that an application should be made by the proper officer to the Magistrate who may issue a warrant for search of goods, things or documents specifing therein the place of such and nature of offence

(4) In clause 118 a proviso should be added that other goods shall be confiscated only if the owner thereof knowing that any goods are smuggled goods places other goods with them but not otherwise The term 'package' should also be defined as connotation of package is too vague and very wide

(5) Clause 123 is about burden of proof It will be very unjust to place burden of proof on the accused or on the purchaser of goods, so explanation to this clause should be added that if the person concerned proves to the satisfaction of the Court the source from which he had received or purchased the goods, the onus of proof shall be deemed to have been discharged

(6) Clause 131 is against the recommendation of the Badhwar Committee report In Chapter XXI, page 81, of the said report, it is said —

> "We find that the Taxation Enquiry Commission examined this matter and came to the conclusion that, in the interest of the appellants themselves, it would be unwise to disturb the appellate machinery

provided at present. But, at the stage of revision by the Government of India of appellate orders, they recommended the setting up of a Tribunal consisting of at least one Judicial member who should be either a serving or a retired High Court Judge and one member who has had experience of Customs Administration We agree with the Commission's views except to the extent that we consider that the association of a suitable representative of the Import-Export Trade as an additional, or third member of the Tribunal would be an improvement and would help to secure more informed, and therefore, more objective decisions "

In line with the above recommendation, we suggest the following amendment —

" The Central Government shall constitute a Tribunal which should consist of at least one Judicial Member who should be a serving or retired High Court Judge and one member who has had experience of customs administration and one representative of the association of the Import and Export Trade

The Central Government shall ordinarily appoint a Judicial Member of the appellate Tribunal to be the President thereof."

(7) In clause 147 the clearing agent should be responsible for some fixed period only and for the mistake of the owner the clearing agent should not be liable to punishment

NEW DELHI, NARENDRASINGH MAHIDA

The 9th November, 1962 RAMCHANDRA VITHAL BADE

II

The Sea Customs Act was enacted in the eighth decade of the nineteenth, century, the Land Customs Act in the third decade of the twentieth, and while there is no Air Customs Act the administration of air customs is governed by rules made under the Indian Aircraft Act which is half a century old The Customs Bill, 1962, seeks to consolidate the provisions relating to sea, land and air customs into a single comprehensive measure Such an attempt at codification is welcome and has been long over due

The Bill now on the anvil of Parliament contains many features which are salutary, desirable and even an improvement on the existing law, but there are certain provisions therein which, I am sorry to say, do not commend themselves to me. I am accordingly constrained to append a note of dissent, mainly in respect of the here-in-after mentioned clauses Lack of time has prevented me from listing all the clauses with which I do not agree

(1) *Clause* 102(1) —It should be so amended as to provide that the person about to be searched should be clearly told that he has a legal right to be taken before a magistrate or a Gazetted Officer of Customs, and only if he opts otherwise, he may be searched by the officer himself The facile assumption or dictum that every one is supposed to know the law with all its details is not wholly tenable in our country where the vast majority of the people are illiterate, at best semi-literate

(2) *Clause* 105 —Human nature being what it is, and power being often an inebriating thing, there should be a safeguard against possible abuse of authority That can only be done in this case by providing for a wholesome restraint to the effect that no such search shall be made without a magisterial warrant In this connection I should like to make it perfectly clear that while smuggling and other anti-social anti-national malpractices should be severely, even drastically dealt with, the law should not become an engine of persecution or harassment of honest traders or other citizens The task of the conscientious legislator, particularly so in a modern democratic State, is to ensure that the exercise of more and more power by the executive does not make serious inroads upon the legitimate rights and liberties of the individual

(3) *Clauses* 106 *and* 118 —The Word 'package' should be so defined as to admit of no ambiguity

(4) *Clause* 123 —This clause should contain, if possible, a provision or an explanation stating when or how the onus of proof on the person concerned should be deemed to have been discharged, and consequently shifted to the person by whom the goods were seized or to the prosecution.

(5) *Clauses* 128—131 —I agree with the recommendations of the Customs Reorganization Committee (Badhwar Committee) with regard to the appellate and revisional machinery, and am therefore of the view that these clauses should be amended in the light of those recommendations.

(6) *Clause* 144 —The words 'if practicable' be deleted

(7) *Clause* 161 —Every order made under this section should be laid before Parliament for approval or such modification as Parliament may deem necessary

NEW DELHI, HARI VISHNU KAMATH

The 12th November, 1962

Bill No 56A of 1962

THE CUSTOMS BILL, 1962

(AS REPORTED BY THE SELECT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee, asterisks indicate ommissions)

A

BILL

to consolidate and amend the law relating to customs

BE IT enacted by Parliament in the Thirteenth Year of the Republic of India as follows —

CHAPTER I

PRELIMINARY

Short title extent and commencement

1 (*1*) This Act may be called the Customs Act, 1962.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2 In this Act, unless the context otherwise requires,—

(*1*) "aircraft" has the same meaning as in the Aircraft Act 1934 (22 of 1934),

(2) "assessment" includes provisional assessment, re-assessment and any order of assessment in which the duty assessed is nil,

(3) "baggage" includes unaccompanied baggage but does not include motor vehicles,

(4) "bill of entry" means a bill of entry referred to in section 46,

(5) "bill of export" means a bill of export referred to in section 50,

(6) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924),

(7) "coastal goods" means goods, otherthan imported goods, transported in a vessel from one port in India to another.

(8) "Collector of Customs" includes an Additional Collector of Customs,

(9) "conveyance" includes a vessel, an aircraft and a vehicle,

(10) "customs airport" means any airport appointed under clause (a) of section 7 to be a customs airport,

(11) "customs area" means the area of a customs station and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities,

(12) "customs port" means any port appointed under clause (a) of section 7 to be a customs port,

(13) "customs station" means any customs port, customs airport or land customs station,

(14) 'dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid,

(15) "duty" means a duty of customs leviable under this Act,

(16) "entry" in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes in the case of goods imported or to be exported by post, the entry referred to in section 82 or the entry made under the regulations made under section 84,

(17) "examination", in relation to any goods, includes measurement and weighment thereof,

(18) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India,

(19) "export goods" means any goods which are to be taken out of India to a place outside India,

(*20*) "exporter", in relation to any goods at any time between their entry for export and the time when they are exported, includes any owner or any person holding himself out to be the exporter,

(*21*) "foreign-going vessel or aircraft" means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes—

(*i*) any naval vessel of a foreign Government taking part in any naval exercises,

(*ii*) any vessel engaged in fishing or any other operations outside the territorial waters of India,

(*iii*) any vessel or aircraft proceeding to a place outside India for any purpose whatsoever,

(*22*) "goods" includes—

(*a*) vessels, aircrafts and vehicles,

(*b*) stores,

(*c*) baggage,

(*d*) currency and negotiable instruments, and

(*e*) any other kind of moveable property,

(*23*) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India,

(*24*) "import manifest" or "imprt report" means the manifest or report required to be delivered under section 30,

(*25*) "imported goods" means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption,

(*26*) "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer,

(*27*) "India" includes the territorial waters of India

(*28*) "Indian customs waters" means the waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of India and includes any bay, gulf, harbour creek or tidal river,

(*29*) 'land customs station'' means any place appointed under clause (*b*) of section 7 to be a land customs station,

(*30*) "market price", in relation to any goods, means the wholesale price of the goods in the ordinary course of trade in India,

(*31*) "person-in-charge" means,—

(*a*) in relation to a vessel, the master of the vessel,

(*b*) in relation to an aircraft, the commander or pilot-in-charge of the aircraft,

(*c*) in relation to a railway train, the conductor, guard or other person having the chief direction of the train,

(*d*) in relation to any other conveyance, the driver or other person-in-charge of the conveyance,

(*32*) "prescribed" means prescribed by regulations made under this Act,

(*33*) "prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with,

(*34*) "proper officer", in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Board or the Collector of Customs,

(*35*) "regulations" means the regulations made by the Board under any provision of this Act,

(*36*) "rules" means the rules made by the Central Government under any provision of this Act,

(*37*) "shipping bill" means a shipping bill referred to in section 50,

(*38*) "stores" means goods for use in vessel or aircraft and includes fuel and spare parts and other articles of equipment whether are not for immediate fitting,

(*39*) "smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113,

(*40*) "tariff value", in relation to any goods, means the tariff value fixed in respect thereof under sub-section (*2*) of section 14,

(*41*) "value", in relation to any goods, means the value thereof determined in accordance with the provisions of sub-section (*1*) of section 14,

(*42*) "vehicle" means conveyance of any kind used on land and includes a railway vehicle,

(*43*) "warehouse' means a public warehouse appointed under section 57 or a private warehouse licenced under section 58,

(*44*) "warehoused goods" means goods deposited in a warehouse,

(*45*) "warehousing station" means a place declared as a warehousing station under section 9

CHAPTER II

OFFICERS OF CUSTOMS

Classes of officers of customs

3 There shall be the following classes of officers of customs, namely —

(*a*) Collector of Customs,

(*b*) Appellate Collectors of Customs,

(*c*) Deputy Collectors of Customs,

(*d*) Assistant Collectors of Customs, and

(*e*) such other class of officers of customs as may be appointed for the purposes of this Act

Appointment of officers of customs

4. (*1*) The Central Government may appoint such persons as it thinks fit to be officers of customs

(*2*) Without prejudice to the provisions of sub-section (1), the Central Government may authorise the Board, a Collector of

Customs or a Deputy or Assistant Collector of Customs to appoint officers of customs below the rank of Assistant Collector of Customs.

Powers of officers of customs.

5 (*1*) Subject to such conditions and limitations as the Board may impose, an officer of customs may exercise the powers and discharge the duties conferred or imposed on him under this Act

(*2*) An officer of customs may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of customs who is subordinate to him.

(3) Notwithstanding anything contained in this section, an Appellate Collector of Customs shall not exercise the powers and discharge the duties conferred or imposed on an officer of customs other than those specified in Chapter XV and section 108

Entrustment of functions of Board and customs officers on certain other officers.

6 The Central Government may, by notification in the Official Gazette, entrust either conditionally or unconditionally to any officer of the Central or the State Government or a local authority any functions of the Board or any officer of customs under this Act.

CHAPTER III

APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, WAREHOUSING STATIONS, ETC.

Appointment of customs ports, airports, etc.

7. The Central Government may, by notification in the Official Gazette, appoint—

(*a*) the ports and airports which alone shall be customs ports or customs airports for the unloading of imported goods and the loading of export goods or any class of such goods ,

(*b*) the places which alone shall be land customs stations for the clearance of goods imported or to be exported by land or inland water or any class of such goods ,

(*c*) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland water into or out of India, or to or from any land customs station from or to any land frontier ,

(*d*) the ports which alone shall be coastal ports for the carrying on of trade in coastal goods or any class of such goods with all or any specified ports in India

Power to approve landing places and specify limits of customs area.

8 The Collector of Customs may—

(*a*) approve proper places in any customs port or customs airport or coastal port for the unloading and loading of goods or for any class of goods

(*b*) specify the limits of any customs area.

Power to declare places to be warehousing stations.

9 The Board may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

Appointment of boarding stations

10 The Collector of Customs may, by notification in the Official Gazette, appoint, in or near any customs port, a boarding station for the purpose of boarding of, or disembarkation from, vessels by officers of customs

CHAPTER IV

PROHIBITIONS ON IMPORTATION AND EXPORTATION OF GOODS

Power to prohibit importation or exportation of goods.

11 (1) If the Central Government is satisfied that it is necessary so to do for any of the purposes specified in sub-section (2), it may, by notification in the Official Gazette, prohibit either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, the import or export of goods of any specified description.

(2) The purposes referred to in sub-section (1) are the following —

(*a*) the maintenance of the security of India ;

(*b*) the maintenance of public order and standards of decency or morality ,

(*c*) the prevention of smuggling ,

(*d*) the prevention of shortage of goods of any description ,

(*e*) the conservation of foreign exchange and the safeguarding of balance of payments ,

(*f*) the prevention of injury to the economy of the country by the uncontrolled import or export of gold or silver,

(*g*) the prevention of surplus of any agricultural product or the product of fisheries ,

(*h*) the maintenance of standards for the classification, grading or marketing of goods in international trade,

(*i*) the establishment of any industry ,

(*j*) the prevention of serious injury to domestic production of goods of any description ,

(*k*) the protection of human, animal or plant life or health,

(*l*) the protection of national treasures of artistic, historic or archæological value ,

(*m*) the conservation of exhaustible natural resources,

(*n*) the protection of patents, trade marks and copyrights ,

(*o*) the prevention of deceptive practices ,

(*p*) the carrying on of foreign trade in any goods by the State, or by a Corporation owned or controlled by the State, to the exclusion, complete or partial, of citizens of India,

(*q*) the fulfilment of obligations under the Charter of the United Nations for the maintenance of International peace and security;

(*r*) the implementation of any treaty, agreement or convention with any country,

(*s*) the compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India ,

(*t*) the prevention of dissemination of documents containing any matter which is likely to prejudicially affect

friendly relations with any foreign State or is derogatory to national prestige ,

(u) the prevention of the contravention of any law for the time being in force , and

(v) any other purpose conducive to the interests of the general public

CHAPTER V

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES

Dutiable goods.

12 (1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Indian Tariff Act, 1934 (32 of 1934), or any other law for the time being in force, on goods imported into, or exported from, India

(2) The provisions of sub-section (1) shall apply in respect of—

(a) all goods belonging to the Central Government, and

(b) all goods belonging to the Government of a State and used for the purposes of a trade or business of any kind carried on by, or on behalf of, that Government, or of any operations connected with such trade or business,

as they apply in respect of goods not belonging to any Government.

Duty on pilferred goods

13. If any imported goods are pilferred after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

Valuation of goods for purposes of assessment.

14 (1) For the purposes of the Indian Tariff Act, 1934 (32 of 1934), or any other law for the time being in force whereunder a

duty of customs is chargeable on any goods by reference to their value, the value of such goods shall be deemed to be—

(a) the ***price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in the***course of international trade, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for the sale or offer for sale,

(b) where such price is not ascertainable, the nearest ascertainable equivalent thereof determined in accordance with the rules made in this behalf

(2) Notwithstanding anything contained in sub-section (1) if the Central Government is satisfied that it is necessary or expedient so to do it may, by notification in the Official Gazette, fix tariff values for any class of imported goods, or export goods having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value

Date for determination of rate of duty and tariff valuation of imported goods.

15 (1) The rate of duty and tariff valuation, if any, applicable to any imported goods, shall be the rate and valuation in force,—

(*a*) in the case of goods entered for home consumption under section 46, on the date on which a bill of entry in respect of such goods is presented under that section;

(*b*) in the case of goods cleared from a warehouse under section 68, on the date on which the goods are actually removed from the warehouse ,

(*c*) in the case of any other goods, on the date of payment of duty

Provided that if a bill of entry has been presented before the date of entry inwards of the vessel by which the goods are imported the bill of entry shall be deemed to have been presented on the date of such entry inwards.

(2) The provisions of this section shall not apply to baggage and goods imported by post.

Date for determination of rate of duty and tariff valuation of export goods

16 (1) The rate of duty and tariff valuation, if any, applicable to any export goods, shall be the rate and valuation in force —

(*a*) in the case of goods entered for export under section 50, on the date on which a shipping bill or a bill of export in respect of such goods is presented under that section,

(*b*) in the case of any other goods, on the date of payment of duty

Provided that if the shipping bill has been presented before the date of entry outwards of the vessel by which the goods are to be exported, the shipping bill shall be deemed to have been presented on the date of such entry outwards.

(2) The provisions of this section shall not apply to baggage and goods exported by post.

Assessment of duty

17. (1) After an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 the imported goods or the export goods as the case may be, or such part thereof as may be necessary may, without undue delay, be examined and tested by the proper officer

(2) After such examination and testing, the duty, if any, leviable on such goods shall, save as otherwise provided in section 85, be assessed

(3) For the purpose of assessing duty under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, policy of insurance, catalogue or other document whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained, and to furnish any information required for such ascertainment which it is in his power to produce or furnish, and thereupon the importer, exporter or such other person shall produce such document and furnish such information.

(4) Notwithstanding anything contained in this section, imported goods or export goods may, prior to the examination or testing thereof, be permitted by the proper officer to be assessed to duty on the basis of the statements made in the entry relating thereto and the documents produced and the information furnished under sub-section (3), but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such

entry or document or any information so furnished is not true in respect of any matter relevant to the assessment, the goods may, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.

Provisional assessment of duty.

18. (1) Notwithstanding anything contained in this Act but without prejudice to the provisions contained in Section 46—

(*a*) where the proper officer is satisfied that an importer or exporter is unable to produce any document or furnish any information necessary for the assessment of duty on the imported goods or the export goods, as the case may be, or

(*b*) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test for the purpose of assessment of duty thereon; or

(*c*) where the importer or the exporter has produced all the necessary documents and furnished full information for the assessment of duty but the proper officer deems it necessary to make further enquiry for assessing the duty,

the proper officer may direct that the duty leviable on such goods may, pending the production of such documents or furnishing of such information or completion of such test or enquiry, be assessed provisionally if the importer or the exporter, as the case may be furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed and the duty provisionally assessed

(2) When the duty leviable on such goods is assessed finally in accordance with the provisions of this Act, then—

(*a*) in the case of goods cleared for home consumption or exportation, the amount paid shall be adjusted against the duty finally assessed and if the amount so paid falls short of, or is in excess of, the finally assessed, the importer or the exporter of the goods shall pay the deficiency or be entitled to a refund, as the case may be,

(*b*) in the case of warehoused goods, the proper officer may, where the duty finally assessed is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty

Determination of duty where goods consist of articles liable to different rates of duty

19 Except as otherwise provided in any law for the time being in force, where goods consist of a set of articles, duty shall be calculated as follows —

(*a*) articles liable to duty with reference to quantity shall be chargeable to that duty,

(*b*) articles liable to duty with reference to value shall, if they are liable to duty at the same rate, be chargeable to duty at that rate, and if they are liable to duty at different rates, be chargeable to duty at the highest of such rates,

(*c*) articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (*b*) :

Provided that,—

(*a*) accessories of, and spare parts or maintenance and repairing implements for, any article which satisfy the conditions specified in the rules made in this behalf shall be chargeable at the same rate of duty as that article,

(*b*) if the importer produces evidence to the satisfaction of the proper officer regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it

Re-importation of goods produced or manufactured in India

20 (1) If goods produced or manufactured in India be imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value not so produced or manufactured are liable or subject, on the importation thereof

Provided that if such importation takes place within three years after the exportation of such goods and it is shown to the satisfaction of the Assistant Collector of Customs that the goods are the same which were exported, the goods may be admitted—

(*a*) in any case where at the time of exportation of the goods, drawback of any customs or excise duty levied by the Union or both was allowed, on payment of customs duty equal to the amount of such drawback,

(*b*) in any case where at the time of exportation of the goods, drawback of any excise duty levied by a State

was allowed on payment of customs duty equal to such excise duty leviable at the time and place of importation of the goods,

(*c*) in any case where the goods were exported in bond, without payment of—

(*i*) the customs duty leviable on the imported materials, if any, used in the manufacture of the goods, or

(*ii*) the excise duty leviable on the indigenous materials, if any, used in the manufacture of the goods, or

(*iii*) the excise duty, if any, leviable on the goods,

on payment of customs duty equal to the aggregate amount of all such duties calculated at the rates prevailing at the time and place of importation of the goods,

(*d*) in any other case, without payment of duty.

(2) For the purposes of this Section goods shall be deemed to have been produced or manufactured in India, if at least twenty-five percent, of the total cost of production or manufacture of the goods has been incurred in India

Goods derelict, wreck, etc.

21. All goods, derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.

Abatement of duty on damaged or deteriorated goods

22 (1) Where it is shown to the satisfaction of the Assistant Collector of Customs—

(*a*) that any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India, or

(*b*) that any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination under Section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent, or

(*c*) that any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent,

such goods shall be chargeable to duty in accordance with the provisions of sub-section (2)

(2) The duty to be charged on the goods referred to in sub-section (1) shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration which the value of the damaged or deteriorated goods bears to the value of the goods before the damage or deterioration.

(3) For the purposes of this section, the value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner:—

(*a*) the value of such goods may be ascertained by the proper officer, or

(*b*) such goods may be sold by the proper officer by public auction or by tender, or with the consent of the owner in any other manner, and the gross sale proceeds shall be deemed to be the value of such goods

Remission of duty on lost, destroyed or abandoned goods.

23. (1) Where it is shown to the satisfaction of the Assistant Collector of Customs that any imported goods have been lost**** or** destroyed, at any time before clearance for home consumption, the Assistant Collector of Customs shall remit the duty on such goods.

(2) The owner of any imported goods may at any time before an order for clearance of the goods for home consumption has been made, relinquish his title to the goods*****and thereupon he shall not be liable to pay the duty thereon

Power to make rule for denaturing or mutilation of goods

24 The Central Government may make rules for permitting at the request of the owner the denaturing or mutilation of imported goods which are ordinarily used for more than one purpose so as

to render them unfit for one or more of such purposes, and where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable if the goods had been imported in the denatured or mutilated form.

Power to grant exemption from duty.

25. (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification goods of any specified description from the whole or any part of duty of customs leviable thereon.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable

Refund of export duty in certain cases.

26 Where on the exportation of any goods any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if—

(*a*) the goods are returned to such person otherwise than by way of re-sale,

(*b*) the goods are re-imported within one year from the date of exportation, and

(*c*) an application for refund of such duty is made before the expiry of six months from the date on which the proper officer makes an order for the clearance of the goods

Claim for refund of duty

27 (1) Any person claiming refund of any duty paid by him in pursuance of an order of assessment made by an officer of customs lower in rank than an Assistant Collector of Customs

may make an application for refund of such duty to the Assistant Collector of Customs before the expiry of six months from the date of payment of duty :

Provided that the limitation of six months shall not apply where any duty has been paid under protest

Explanation —Where any duty is paid provisionally under section 18, the period of six months shall be computed from the date of adjustment of duty after the final assessment thereof

(2) If on receipt of any such application the Assistant Collector of Customs is satisfied that the whole or any part of the duty paid by the applicant should be refunded to him, he may make an order accordingly

(3) Where, as a result of any order passed in appeal or revision under this Act, refund of any duty becomes due to any person, the proper officer may refund the amount to such person without his having to make any claim in that behalf

(4) Save as provided in section 26, no claim for refund of any duty shall be entertained except in accordance with the provisions of this section

Notice for payment of duties not levied, short levied or erroneously refunded

28 (1) When any duty has not been levied or has been short-levied or erroneously refunded, the proper officer may, within six months from the relevant date, serve notice on the person chargeable with the duty which has not been levied or which has been so short levied or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice

Provided that where any duty has not been levied or has been short levied or has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter, the provisions of this sub-section shall have effect as if for the words "six months" the words "five years" were substituted.

(2) The Assistant Collector of Customs, after considering the representation, if any, made by the person on whom notice is served under sub-section (1) shall determine the amount of duty due from such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(3) For the purposes of sub-section (1), the expression "relevant date" means—

(*a*) in a case where duty is not levied, the date on which the proper officer makes an order for the clearance of the goods,

(*b*) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof,

(*c*) in a case where duty has been erroneously refunded, the date of refund,

(*d*) in any other case, the date of payment of duty.

CHAPTER VI

PROVISIONS RELATING TO CONVEYANCES CARRYING IMPORTED OR EXPORTED GOODS

Arrival of vessels and aircrafts in India.

29. (1) The peson-in-charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land—

(*a*) for the first time after arrival in India, or

(*b*) at any time while it is carrying passengers or cargo brought in that vessel or aircraft,

at any place other than a customs port or a customs airport, as the case may be * * * *

(2) The provisions of sub-section (1) shall not apply in relation to any vessel or aircraft which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs port or customs airport but the person-incharge of any such vessel or aircraft—

(*a*) shall immediately report the arrival of the vessel or the landing of the aircraft to the nearest customs officer or the officer-in-charge of a police station and shall on demand produce to him the log book belonging to the vessel or the aircraft,

(*b*) shall not without the consent of any such officer permit any goods carried in the vessel or the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the vessel or the aircraft, and —

(*c*) shall comply with any directions given by any such officer with respect to any such goods,

and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft:

Provided that nothing in this section shall prohibit the departure of any crew or passengers from the vicinity of, or the removal of goods from, the vessel or aircraft where the departure or removal is necessary for reasons of health, safety or the preservation of life or property

Delivery of import manifest or import report.

30. (1) The person-in-charge of a conveyance carrying imported goods shall, within twenty-four hours after arrival thereof at a customs station, deliver to the proper officer, in the case of a vessel or aircraft, an import manifest, and in the case of a vehicle, an import report, in the prescribed form:

Provided that,—

(*a*) in the case of a vessel any such manifest may be delivered to the proper officer before the arrival of the vessel,

(*b*) if the proper officer is satisfied that there was sufficient cause for not delivering the import manifest or import report or any part thereof within twenty-four hours after the arrival of the conveyance, he may accept it at any time thereafter

(2) The person delivering the import manifest or import report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents.

(3) If the proper officer is satisfied that the import manifest or import report is in any way incorrect or incomplete, and that there was no fraudulent intention, he may permit it to be amended or supplemented

Imported goods not to be unloaded from vessel until entry inwards granted.

31 (1) The master of a vessel shall not permit the unloading of any imported goods until an order has been given by the proper officer granting entry inwards to such vessel

(2) No order under sub section (1) shall be given until an import manifest has been delivered or the proper officer is satisfied that there was sufficient cause for not delivering it

(3) Nothing in this section shall apply to the unloading of baggage accompanying a passenger or a member of the crew, mail bags, animals, perishable goods and hazardous goods

Imported goods not to be unloaded unless mentioned in import manifest or import report.

32 No imported goods required to be mentioned under the regulations in an import manifest or import report shall, except with the permission of the proper officer, be unloaded at any customs station unless they are specified in such manifest or report for being unloaded at that customs station

Unloading and loading of goods at approved places only

33 Except with the permission of the proper officer, no imported goods shall be unloaded, and no export goods shall be loaded, at any place other than a place approved under clause (*a*) of section 8 for the unloading or loading of such goods

Goods not to be unloaded or loaded except under supervision of customs officer

34 Imported goods shall not be unloaded from, and export goods shall not be loaded on, any conveyance except under the supervision of the proper officer

Provided that the Board may, by notification in the Official Gazette, give general permission and the proper officer may in any particular case give special permission, for any goods or class of goods to be unloaded or loaded without the supervision of the proper officer

Restrictions on goods being water-borne

35. No imported goods shall be water-borne for being landed from any vessel, and no export goods which are not accompanied by a shipping bill, shall be water-borne for being shipped, unless the goods are accompanied by a boat-note in the prescribed form:

Provided that the Board may, by notification in the Official Gazette, give general permission, and the proper officer may in any particular case give special permission, for any goods or any class of goods to be water borne without being accompanied by a boat-note.

Restrictions on unloading and loading of goods onholidays, etc.

36. No imported goods shall be unloaded from, and no export goods shall be loaded on, any conveyance on any Sunday or on any holiday observed by the Customs Department or on any other day after the working hours, except after giving the prescribed notice and on payment of the prescribed fees, if any:

Provided that no fees shall be levied for the unloading and loading of baggage accompanying a passenger or a member of the crew, and mail bags

Power to board conveyances.

37 The proper officer may, at any time, board any conveyance carrying imported goods or exports goods and may remain on such conveyance for such period as he considers necessary

Power to require production of documents and ask questions.

38 For the purposes of carrying out the provisions of this Act, the proper officer may require the person-in-charge of any conveyance or animal carrying imported goods or export goods to produce any document and to answer any questions and thereupon such person shall produce such documents and answer such questions

Export goods not to be loaded on vessel until entry-outwards granted

39 The master of a vessel shall not permit the loading of any export goods, other than baggage and mail bags, until an order has been given by the proper officer granting entry-outwards to such vessel.

Export goods not to be loaded unless passed by proper officer

40 The person-in-charge of a conveyance shall not permit the loading at a customs station—

(a) of export goods, other than baggage and mail bags, unless a shipping bill or bill of export or a bill of transhipment, as the case may be, duly passed by the proper officer, has been handed over to him by the exporter ,

(b) of baggage and mail bags, unless their export has been duly permitted by the proper officer

Delivery of export manifest or export report

41 (1) The person-in charge of a conveyance carrying export goods shall, before departure of the conveyance from a customs station, deliver to the proper officer in the case of a vessel or aircraft, an export manifest, and in the case of a vehicle, an export report, in the prescribed form

Provided that if the agent of the person in charge of the conveyance furnishes such security as the proper officer deems sufficient for duly delivering within seven days from the date of departure of the conveyance the export manifest or the export report, as the case may be, the proper officer may (subject to such rules as the Central Government may make in this behalf) accept such manifest or report within the aforesaid period

(2) The person delivering the export manifest or export report shall at the foot thereof make and subscribe to a declaration as to the truth of its contents

(3) If the proper officer is satisfied that the export manifest or export report is in any way incorrect or incomplete and that there was no fraudulent intention, he may permit such manifest or report to be amended or supplemented

No conveyance to leave without written order

42 (1) The person-in-charge of a conveyance which has brought any imported goods or has loaded any export goods at a customs station shall not cause or permit the conveyance to depart from that customs station until a written order to that effect has been given by the proper officer

(2) No such order shall be given until—

(a) the person-in-charge of the conveyance has answered the questions put to him under section 38,

(b) the provisions of section 41 have been complied with,

(c) the shipping bills or bills of export, the bills of transhipment, if any, and such other documents as the proper officer may require have been delivered to him,

(d) all duties leviable on any stores consumed in such conveyance, and all charges and penalties due in respect of such conveyance or from the person in-charge thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct,

(e) the person-in-charge of the conveyance has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct,

(f) in any case where any export goods have been loaded without payment of export duty or in contravention of any provision of this Act or any other law for the time being in force relating to export of goods,—

(i) such goods have been unloded, or

(ii) where the Assistant Collector of Customs is satisfied that it is not practicable to unload such goods, the person in-charge of the conveyance has given an undertaking, secured by such guarantee or deposit of such amount as the proper officer may direct, for bringing back the goods to India

Exemption of certain classes of conveyances from certain provisions of this Chapter.

43 (1) The provisions of sections 30, 41 and 42 shall not apply to a vehicle which carries no goods other than the luggage of its occupants

(2) The Central Government may, by notification in the Official Gazzette, exempt the following classes of conveyances from all or any of the provisions of this Chapter—

(*a*) conveyances belonging to the Government or any foreign Government,

(*b*) vessels and aircrafts which temporarily enter India by reason of any emergency

CHAPTER VII

CLEARANCE OF IMPORTED GOODS AND EXPORT GOODS

Chapter not to apply to baggage and postal articles

44 The provisions of this Chapter shall not apply to (*a*) baggage, and (*b*) goods imported or to be exported by post

Clearance of imported goods

Restrictions on custody and removal of imported goods

45. (1) Save as otherwise provided in any law for the time being in force, all imported goods unloaded in a customs area shall remain in the custody of such person as may be approved by the Collector of Customs untill they are cleared for home consumption or are ware-housed or are transhipped in accordance with the provisions of Chapter VIII

(2) The person having custody of any imported goods in a customs area, whether under the provisions of sub-section (1) or under any law for the time being in force,—

(*a*) shall keep a record of such goods and send a copy thereof to the proper officer,

(*b*) shall not permit such goods to be removed from the customs area or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer.

Entry of goods on importation

46 (1) The importer of any goods, other than goods intended for transit or transhipment, shall make entry thereof by presenting

to the proper officer a bill of entry for home consumption or warehousing in the prescribed form.

Provided that if the importer makes and subscribes to a declaration before the proper officer, to the effect that he is unable for want of full information to furnish all the particulars of the goods required under this sub-section, the proper officer may, pending the production of such information, permit him, previous to the entry thereof (a) to examine the goods in the presence of an officer of customs, or (b) to deposit the goods in a public warehouse appointed under section 57 without warehousing the same

(2) Save as otherwise permitted by the proper officer, a bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor

(3) A bill of entry under sub-section (1) may be presented at any time after the delivery of the import manifest or import report as the case may be.

Provided that the Collector of Customs may in any special circumstances permit a bill of entry to be presented before the delivery of such manifest or report.

(4) The importer while presenting a bill of entry shall at the foot thereof make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods

(5) If the proper officer is satisfied that the interests of revenue are not prejudicially affected and that there was no fraudulent intention, he may permit substitution of a bill of entry for home consumption for a bill of entry for warehousing or *vice versa.*

Clearance of goods for home consumption.

47 Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption

Procedure in case of goods not cleared, warehoused, or transhipped within two months after un-loading

48. If any * * goods brought into India from a place outside India are not cleared for home consumption or warehoused or transhipped within two months from the date of the unloading thereof at a customs station or within such further time as the proper officer may allow or if the title to any imported goods is relinquished, such goods may, after notice to the importer and with the permission of the proper officer be sold by the person having the custody thereof

Provided that—

(*a*) animals, perishable goods and hazardous goods, may, with the permission of the proper officer, be sold at any time,

(*b*) arms and ammunition * * * may be sold at such time and place and in such manner as the Central Government may direct

Explanation —In this section, "arms" and "ammunition" have the meanings respectively assigned to them in the Arms Act, 1959 (54 of 1959)

Storage of imported goods in warehouse pending clearance.

49 Where in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Collector of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time, the goods may, pending clearance, be permitted to be stored in a public warehouse, or in a private warehouse if facilities for deposit in a public warehouse are not available, but such goods shall not be deemed to be warehoused goods for the purposes of this Act, and accordingly the provisions of Chapter IX shall not apply to such goods

Clearance of export goods

Entry of goods for exportation

50 (1) The exporter of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in the prescribed form

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall at the foot thereof make and subscribe to a declaration as to the truth of its contents

Clearance of goods for exportation

51 Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearnce and loading of the goods for exportation

CHAPTER VIII

GOODS IN TRANSIT

Chapter not to apply to baggage, postal articles and stores.

52 The provisions of this Chapter shall not apply to (a) baggage, (b) goods imported by post, and (c) stores

Transit of goods in same vessel or aircraft.

53 Subject to the provisions of section 11, any goods imported in a vessel or aircraft and mentioned in the import manifest as for transit in the same vessel or aircraft to any port or airport outside India or any customs port or customs airport may be allowed to be so transitted without payment of duty

Transhipment of goods without payment of duty

54 (1) Where any goods imported into a customs port or customs airport are intended for transhipment, a bill of transhipment shall be presented to the proper officer in the precribed form.

(2) Subject to the provisions of section 11—

(a) Where any goods imported into a customs port are mentioned in the import manifest as for transhipment to any port outside India, or

(*b*) where any goods imported into a customs airport are mentioned in the import manifest as for transhipment to any airport outside India,

such goods may be allowed to be so transhipped without payment of duty

(3) Where any goods imported into a customs port or a customs airport are mentioned in the import manifest as for transhipment—

(*a*) to any major port as defined in the Indian Ports Act, 1908 (15 of 1908), or the customs airport at Bombay, Calcutta, Delhi or Madras, or any other customs port or customs airport which the Board may, by notification in the Offical Gazette, specify in this behalf, or

(*b*) to any other customs port or customs airport, and the proper officer is satisfied that the goods are *bona fide* intended for transhipment to such customs port or airport,

the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs port or customs airport to which transhipment is allowed

Entry, etc, of transitted or transhipped goods on arrival at customs port or customs airport.

55 Where any goods are allowed to be transitted under section 53 or transhipped under sub-section (3) of section 54 to any customs port or customs airport, they shall, on their arrival at such port or air port, be liable to duty and shall be entered in like manner as goods are entered on the first importation thereof and the provisions of this Act and any rules and regulations shall, so far as may be, apply in relation to such goods

Transport of certain classes of goods subject to prescribed conditions.

56 Imported goods may be transported without payment of duty from one land customs station to another and any goods may be transported from one part of India to another part through any foreign territory, subject to such conditions as may be prescribed for the due arrival of such goods at the place of destination.

CHAPTER IX

WAREHOUSING

Appointing of public warehouses.

57 At any warehousing station, the Assistant Collector of Customs may appoint public warehouses wherein dutiable goods may be deposited without payment of duty

Licensing of private warehouses

58 (1) At any warehousing station the Assistant Collector of Customs may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited without payment of duty

(2) The Assistant Collector of Customs may cancel a licence granted under sub-section (1)—

(a) by giving one month's notice in writing to the licensee ; or

(b) if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of the conditions of the licence

Provided that before any licence is cancelled under clause (b) the licensee shall be given a reasonable opportunity of being heard

(3) Pending an enquiry whether a licence granted under sub, section (1) should be cancelled under clause (b) of sub-section (2). the Assistant Collector of Customs may suspend the licence

Warehousing bond

59 (1) The importer of any dutiable goods which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods, —

(a) to observe all the provisions of this Act and the rules and regulations in respect of such goods,—

(b) to pay on or before a date specified in a notice of demand all duties, rent and charges claimable on account of such goods under this Act, together with interest on the same from the date so specified at the rate of six per

cent per annum or such other rate as is for the time being fixed by the Board , and

(c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and regulations in respect of such goods

(2) For the purposes of sub-section (1), the Assistant Collector of Customs may permit an importer to enter into a general bond in such amount as the Assistant Collector of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period

(3) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse

Provided that where the whole of the goods or any part thereof are transferred to another person, the proper officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee

Permission for deposit of goods in a warehouse

60 When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse without payment of duty.

Period for which goods may remain warehoused

61 Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed, till the expiry of three years after the date on which the proper officer made an order under section 60 permitting the deposit of the goods in a warehouse

Provided that –

(i) in the case of any goods which are likely to deteriorate, the aforesaid period of three years may be reduced by the Collector of Customs to such shorter period as he may deem fit ,

(*ii*) in the case of any goods which are not likely to deteriorate, the aforesaid period of three years may, on sufficient cause being shown, be extended by the Collector of Customs for a period not exceeding one year and by the Board for such further period as it may deem fit:

Provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation

Control over warehoused goods.

62 (1) All warehoused goods shall be subject to the control of the proper officer

(2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer

(3) The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock.

(4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein

Payment of rent and warehouse charges.

63 (1) The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Collector of Customs

(2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select

Owner's right to deal with warehoused goods.

64 With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same—

(*a*) inspect the goods,

(*b*) separate damaged or deteriorated goods from the rest

(*c*) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods

(*d*) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods,

(*e*) show the goods for sale, or

(*f*) take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples

Manufacture and other operations in relation to goods in a warehouse

65 (1) With the sanction of the Assistant Collector of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods

(2) Where in the course of any operations permissible in relation to any warehoused goods under sub-section (1), there is any waste or refuse, the following provisions shall apply —

(*a*) if the whole or any part of the goods resulting from such operations are exported, import duty shall be remitted on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods exported

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into India in that form,

(*b*) if the whole or any part of the goods resulting from such operations are cleared from the warehouse for home consumption, import duty shall be charged on the quantity of the warehoused goods contained in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods cleared for home consumption

Power to exempt imported materials used in the manufacture of goods in warehouse.

66 If any imported materials are used in accordance with the provisions of section 65 for the manufacture of goods and the

rate of duty leviable on the imported materials exceeds the rate of duty leviable on such goods, the Central Government, if satisfied that in the interest of the establishment or development of any domestic industry it is necessary so to do, may, by notification in the Official Gazette, exempt the imported materials from the whole or part of the excess rate of duty

Removal of goods from one warehouse to another.

67 The owner of any warehoused goods may, with the permission of the proper officer, remove them from one warehouse to another, without payment of duty, subject to such conditions as may be prescribed for the due arrival of the warehoused goods at the warehouse to which removal is permitted

Clearance of warehoused goods for home consumption

68 The importer of any warehoused goods may clear them for home consumption if—

(*a*) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form,

(*b*) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid, and

(*c*) an order for clearance of such goods for home consumption has been made by the proper officer

Clearance of warehoused goods for exportation.

69 (1) Any warehoused goods may be exported to a place outside India without payment of import duty if—

(*a*) a shipping bill or a bill of export has been presented in respect of such goods in the prescribed form;

(*b*) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid, and

(*c*) an order for clearance of such goods for exportation has been made by the proper officer

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that warehoused goods of any specified description are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that such

goods shall not be exported to any place outside India without payment of duty or may be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification

Allowance case of volatile goods

70 (1) When any warehoused goods to which this section applies are at the time of delivery from a warehouse found to be deficient in quantity on account of natural loss, the Assistant Collector of Customs may remit the duty on such deficiency

(2) This section applies to such warehoused goods as the Central Government, having regard to the volatility of the goods and the manner of their storage, may, by notification in the Official Gazette, specify

Goods not to be taken out of warehouse except as provided by this Act

71 No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or re-exportation, or for removal to another warehouse, or as otherwise provided by this Act

Goods improperly removed from warehonse, etc

72 (1) In any of the following cases, that is to say,—

(*a*) where any warehoused goods are removed from a warehouse in contravention of section 71,

(*b*) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse,

(*c*) where any warehoused goods have been taken under section 64 as samples without payment of duty,

(*d*) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer,

the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods

(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may select

Cancellation and return of warehousing bond

73 When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.

CHAPTER X

DRAWBACK

Drawback allowable on re-export of duty-paid goods

74 (1) When any goods capable of being easily identified which have been imported into India and upon which any duty has been paid on importation, are exported to any place outside India, ninety-eight per cent of such duty shall, except as otherwise hereinafter provided, be repaid as drawback, if—

(*a*) the goods are identified to the satisfaction of the Assistant Collector of Customs as the goods which were imported, and

(*b*) the goods are entered for export within two years from the date of payment of duty on the importation thereof.

Provided that in any particular case the aforesaid period of two years may, on sufficient cause being shown, be extended by the Board by such further period as it may deem fit

(2) Notwithstanding anything contained in sub section (1), the rate of drawback in the case of goods which have been used after the importation thereof shall be such as the Central Government, having regard to the duration of use, depreciation

in value and other relevant circumstances, may, by notification in the Official Gazette, fix

(3) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may—

(*a*) provide for the manner in which the indentity of goods imported in different consignments which are ordinarily stored together in bulk, may be established,

(*b*) specify the goods which shall be deemed to be not capable of being easily identified

(4) For the purposes of this section—

(*a*) goods shall be deemed to have been entered for export on the date with reference to which the rate of duty is calculated under section 16,

(*b*) in the case of goods assessed to duty provisionally under section 18, the date of payment of the provisional duty shall be deemed to be the date of payment of duty

Drawback on imported materials used in the manufacture of goods which are exported

75 (1) Where it appears to the Central Government that in respect of goods of any class or description manufactured in India and exported to any place outside India, a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the manufacture of such goods, the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2)

(2) The Central Government may make rules for the purpose of carrying out the provisions of sub-section (1) and, in particular, such rules may provide—

(*a*) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture of the goods or as is specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture of goods of that class or description either by manufacturers generally or by any particular manufacturer,

(*b*) for the production of such certificates, documents and other evidence in support of each claim of drawback as may be necessary,

(*c*) for requiring the manufacturer to give access to every part of his manufactory to any officer of customs specially authorised in this behalf by the Assistant Collector of Customs to enable such authorised officer to inspect the processes of manufacture and to verify by actual check or otherwise the statements made in support of the claim for drawback

Prohibition and regulation of drawback in certain cases.

76 (1) Notwithstanding anything hereinbefore contained, no drawback shall be allowed—

(*a*) in respect of any goods which are required under the regulations to be included in the export manifest or export report and are not so included,

(*b*) in respect of any goods the market-price of which is less than the amount of drawback due thereon,

(*c*) where the drawback due in respect of any goods is less than five rupees

(2) Without prejudice to the provisions of sub-section (1), if the Central Government is of opinion that goods of any specified description in respect of which drawback may be claimed under this Chapter are likely to be smuggled back into India, it may, by notification in the Official Gazette, direct that drawback shall not be allowed in respect of such goods or may be allowed subject to such restrictions and conditions as may be specified in the notification.

CHAPTER XI

SPECIAL PROVISIONS REGARDING BAGGAGE, GOODS IMPORTED OR EXPORTED BY POST, AND STORES.

Baggage

Declaration by owner of baggage

77 The owner of any baggage shall, for the purpose of clearing it, make a declaration of its contents to the proper officer.

Determination of rate of duty and tariff valuation in respect of baggage.

78 The rate of duty and tariff valuation, if any, applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage under section 77

Bona fide **baggage exempted from duty**

79 (1) The proper officer may, subject to any rules made under sub-section (2), pass free of duty—

(*a*) any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it has been in his use for such minimum period as may be specified in the rules,

(*b*) any article in the baggage of a passenger in respect of which the said officer is satisfied that it is for the use of the passenger or his family or is a *bona fide* gift or souvenir, provided that the value of each such article and the total value of all such articles does not exceed such limits as may be specified in the rules

(2) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may specify—

(*a*) the minimum period for which any article has been used by a passenger or a member of the crew for the purpose of clause (*a*) of sub section (1);

(*b*) the maximum value of any individual article and the maximum total value of all the articles which may be passed free of duty under clause (*b*) of sub-section (1),

(*c*) the conditions (to be fulfilled before or after clearance) subject to which any baggage may be passed free of duty

(3) Different rules may be made under sub-section (2) for different classes of persons.

Temporary detention of baggage.

80 Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under section 77, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India.

Regulations in respect of baggage

81 The Board may make regulations,—

(*a*) providing for the manner of declaring the contents of any baggage,

(*b*) providing for the custody, examination, assessment to duty and clearance of baggage,

(*c*) providing for the transit or transhipment of baggage from one customs station to another or to a place outside India

Goods imported or exported by post

Label or declaration accompanying goods to be treated as entry

82 In the case of goods imported or exported by post, any label or declaration accompanying the goods, which contains the description quantity and value thereof, shall be deemed to be an entry for import or export, as the case may be, for the purposes of this Act

Rate of duty and tariff valuation in respect of goods imported or exported by post

83 (1) The rate of duty and tariff-value, if any, applicable to any goods imported by post shall be the rate and valuation in force on the date on which the postal authorities present to the proper officer a list containing the particulars of such goods for the purpose of assessing the duty thereon

Provided that if such goods are imported by a vessel and the list of the goods containing the particulars was presented before the date of the arrival of the vessel it shall be deemed to have been presented on the date of such arrival

(2) The rate of duty and tariff value, if any, applicable to any goods exported by post shall be the rate and valuation in force on the date on which the exporter delivers such goods to the postal authorities for exportation

Regulations regarding goods imported or to be exported by post

84 The Board may make regulations providing for —

(*a*) the form and manner in which an entry may be made in respect of any specified class of goods imported or to be exported by post, other than goods which are accompanied by a label or declaration containing the description, quantity and value thereof,

(*b*) the examination, assessment to duty, and clearance of goods imported or to be exported by post,

(*c*) the transit or transhipment of goods imported by post, from one customs station to another or to a place outside India.

Stores.

Stores may be allowed to be warehoused without assessment to duty

85 Where any imported goods are entered for warehousing and the importer makes and subscribes to a declaration that the goods are to be supplied as stores to vessels or aircrafts without payment of import duty under this Chapter, the proper officer may permit the goods to be warehoused without the goods being assessed to duty

Transit and transhipment of stores

86 (1) Any stores imported in a vessel or aircraft may, without payment of duty, remain on board such vessel or aircraft while it is in India

(2) Any stores imported in a vessel or aircraft may, with the permission of the proper officer, be transferred to any vessel or aircraft as stores for consumption therein as provided in section 87 or section 90

Imported stores may be consumed on board a foreign-going vessel or aircraft

87 Any imported stores on board a vessel or aircraft (other than stores to which section 90 applies) may, without payment of duty, be consumed thereon as stores during the period such vessel or aircraft is a foreign-going vessel or aircraft

Application of section 69 and Chapter X to stores

88 The provisions of section 69 and Chapter X shall apply to stores (other than those to which section 90 applies) as they apply to other goods, subject to the modifications that—

(*a*) for the words "exported to any place outside India" or the word "exported", wherever they occur, the words "taken on board any foreign-going vessel or aircraft as stores" shall be substituted,

(*b*) in the case of drawback on fuel and lubricating oil taken on board any foreign-going aircraft as stores, sub-section (1) of section 74 shall have effect as if for the words "ninety-eight per cent", the words "the whole" were substituted

Stores to be free of export duty

89 Goods produced or manufactured in India and required as stores on any foreign-going vessel or aircraft may be exported free of duty in such quantities as the proper officer may determine, having regard to the size of the vessel or aircraft, the number of passengers and crew and the length of the voyage or journey on which the vessel or aircraft is about to depart

Concession in respect of imported stores for the Navy.

90 (1) Imported stores specified in sub-section (3) may without payment of duty be consumed on board a ship of the Indian Navy

(2) The provisions of section 69 and Chapter X shall apply to stores specified in sub-section (3) as they apply to other goods, subject to the modifications that—

(*a*) for the words "exported to any place outside India" or the word "exported wherever they occur, the words "taken on board a ship of the Indian Navy" shall be substituted,

(*b*) for the words "ninety-eight per cent" in sub-section (1) of section 74, the words "the whole" shall be substituted

(3) The stores referred to in sub-sections (1) and (2) are the following —

(*a*) stores for the use of a ship of the Indian Navy,

(*b*) stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service

CHAPTER XII

PROVISIONS RELATING TO COASTAL GOODS AND VESSELS CARRYING COASTAL GOODS

Chapter not to apply to baggage and stores

91 The provisions of this Chapter shall not apply to baggage and stores

Entry of coastal goods

92 (1) The consignor of any coastal goods shall make an entry thereof by presenting to the proper officer a bill of coastal goods in the prescribed form

(2) Every such consignor while presenting a bill of coastal goods shall, at the foot thereof, make and subscribe to a declaration as to the truth of the contents of such bill

Coastal goods not to be loaded until bill relating thereto is passed, etc.

93 The master of a vessel shall not permit the loading of any coastal goods on the vessel until a bill relating to such goods presented under section 92 has been passed by the proper officer and has been delivered to the master by the consignor

Clearance of coastal goods at destination

94 (1) The master of a vessel carrying any coastal goods shall carry on board the vessel all bills relating to such goods delivered to him under section 93 and shall, immediately on arrival of the vessel at any customs or coastal port, deliver to the proper officer of that port all bills relating to the goods which are to be unloaded at that port

(2) Where any coastal goods are unloaded at any port, the proper officer shall permit clearance thereof if he is satisfied that they are entered in a bill of coastal goods delivered to him under sub-section (1)

Master of a coasting vessel to carry an advice book

95 (1) The master of every vessel carrying coastal goods shall be supplied by the Customs authorities with a book to be called the "advice book"

(2) The proper officer at each port of call by such vessel shall make such entries in the advice book as he deems fit, relating to the goods loaded on the vessel at that port

(3) The master of every such vessel shall carry the advice book on board the vessel and shall on arrival at each port of call deliver it to the proper officer at that port for his inspection

Loading and unloading of coastal goods at customs port or coastal port only

96 No coastal goods shall be loaded on, or unloaded from, any vessel at any port other than a customs port or a coastal port appointed under section 7 for the loading or unloading of such goods

No coasting vessel to leave without written order

97 (1) The master of a vessel which has brought or loaded any coastal goods at a customs or coastal port shall not cause or permit the vessel to depart from such port until a written order to that effect has been given by the proper officer

(2) No such order shall be given until –

(*a*) the master of the vessel has answered the questions put to him under section 38,

(*b*) all charges and penalties due in respect of that vessel or from the master thereof have been paid or the payment secured by such guarantee or deposit of such amount as the proper officer may direct,

(*c*) the master of the vessel has satisfied the proper officer that no penalty is leviable on him under section 116 or the payment of any penalty that may be levied upon him under that section has been secured by such guarantee or deposit of such amount as the proper officer may direct,

(*d*) the provisions of this Chapter and any rules and regulations relating to coastal goods and vessels carrying coastal goods have been complied with

Application of certain provisions of this Act to coastal goods, etc

98 (1) Sections 33, 34 and 36 shall, so far as may be, apply to coastal goods as they apply to imported goods or export goods

(2) Sections 37 and 38 shall, so far as may be, apply to vessels carrying coastal goods as they apply to vessels carrying imported goods or export goods

(3) The Central Government may, by notification in the Official Gazette, direct that all or any of the other provisions of Chapter VI and the provisions of section 45 shall apply to coastal goods or vessels carrying coastal goods subject to such exceptions and modifications as may be specified in the notification

Power to make rules in respect of coastal goods and coasting vessels

99 The Central Government may make rules for—

(*a*) preventing the taking out of India of any coastal goods the export of which is dutiable or prohibited under this Act or any other law for the time being in force,

(*b*) preventing, in the case of a vessel carrying coastal goods as well as imported or export goods, the substitution of imported or export goods by coastal goods.

CHAPTER XIII

SEARCHES, SEIZURE AND ARREST

Power to search suspected persons entering on leaving India, etc

100 (1) If the proper officer has reason to believe that any person to whom this section applies has secreted about his person, any goods liable to confiscation or any documents relating thereto, he may search that person

(2) This section applies to the following persons, namely

(*a*) any person who has landed from or is about to board or is on board any vessel within the Indian customs waters,

(*b*) any person who is landed from or is about to board, or is on board a foreign-going aircraft,

(*c*) any person who has got out of, or is about to get into, or is in, a vehicle, which has arrived from, or is to proceed to any place outside India,

(*d*) any person not included in clause (*a*), (*b*) or (*c*) who has entered or is about to leave India,

(*e*) any person in a customs area.

Power to search suspected persons on certain other cases

101. (1) Without prejudice to the provisions of section 100, if an officer of customs empowered in this behalf by general or special order of the Collector of Customs, has reason to believe that any person has secreted about his person any goods of the description specified in sub-section (2) which are liable to confiscation, or documents relating thereto, he may search that person

(2) The goods referred to in sub-section (1) are the following —

(*a*) gold,
(*b*) diamonds,
(*c*) manufactures of gold or diamonds,
(*d*) watches,
(*e*) any other class of goods which the Central Government may, by notification in the Official Gazette, specify

Persons to be searched may require to be taken before gazetted officer of customs or magistrate

102 (1) When any officer of customs is about to search any person under the provisions of section 100 or section 101, the officer of customs shall, if such person so requires, take him without unnecessary delay to the nearest gazetted officer of customs or magistrate

(2) If such requision is made, the officer of customs may detain the person making it until he can bring him before the gazetted officer of customs or the magistrate.

(3) The Gazetted officer of Customs or the magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made

(4) Before making a search under the provisions of section 100 or section 101, the officer of customs shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do, and the search shall made in the presence of such pessons and a list of all things seized in the course of such search shall be prepared by such officer or other person and signed by auch witnesses

(5) No female shall * * be search by any one excepting a female

Power to screen or X-ray bodies of suspected persons for detecting secreted goods

103 (1) Where the proper officer has reason to believe that any person referred to in sub section (2) of section 100 has any goods liable to confiscation secreted inside his body, he may detain such person and produce him without unnecessary deley before the nearest magistrate

(2) A magistrate before whom any person is brought under sub-section (1) shall, if he sees no reasonable ground for believing that such person has any such goods secreted inside his body, forthwith discharge such person.

(3) Where any such magistrate has reasonable ground for believing that such person has any such goods secreted inside his body and the magistrate is satisfied that for the purpose of discovering such goods it is necessary to have the body of such person screened or X-rayed, he may make an order to that effect

(4) Where a magistrate has made any order under sub-section (3), in relation to any person, the proper officer shall, as soon as practicable, take such person before a radiologist possessing qualifications recognized by the Central Government for the purpose of this section, and such person shall allow the radiologist to screen or X-ray his body.

(5) A radiologist before whom any person is brought under sub-section (4) shall, after screening or X-raying the body of such person, forward his report, together with any X-ray pictures taken by him, to the magistrate without unnecessary delay

(6) Where on receipt of a report from a radiologist under sub-section (5) or otherwise, the magistrate is satisfied that any person has any goods liable to confiscation secreted inside his body, he may direct that suitable action for bringing out such goods be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction

Provided that in the case of a female no such action shall be taken except on the advise and under the supervision of a female registered medical practitioner.

(7) Where any person is brought before a magistrate under this section, such magistrate may for the purpose of enforcing the provisions of this section order such person to be kept in such custody and for such period as he may direct.

(8) Nothing in this section shall apply to any person referred to in sub-section (1), who admits that goods liable to confiscation are secreted inside his body, and who voluntarily submits himself for suitable action being taken for bringing out such goods

Explanation —For the purposes of this section, the expression "registered medical practitioner" means any person who holds a qualification granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916, (7of 1916) or notified under section 3 of that Act, or by an authority specified in any of the Schedules to the Indian Medical Council Act, 1956 (102 of 1956).

104 Power to arrest

(1) If an officer of customs empowered in this behalf by general or special order of the Collector of Customs has reason to believe that any person in India or within the Indian Customs waters has been guilty of an offence punishable under section 135, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested under sub-section (1) shall, without unnecessary delay, be taken to a magistrate.

(3) Where an officer of customs has arrested any person under sub-section (1), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-incharge of a police-station has and is subject to under the Code of Criminal Procedure, 1898 (5 of 1898)

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act shall not be cognizable

105 Power to search premises.

(1) If the Assistant Collector of Customs, or in any area adjoining the land frontier or the coast of India an officer of customs specially empowered by name in this behalf by the Board, has reason to believe that any goods liable to confiscation, or any documents or things which in his opinion will be useful for or relevant to any proceeding under this Act, are secreted in any place, he may authorise any officer of customs to search or may himself search for such goods, documents or things

(2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Collector of Customs" were substituted

106 power to stop and search conveyances

(1) Where the proper officer has reason to believe that any aircraft, vehicle or animal in India or any vessel in India or within the Indian customs waters has been, is being, or his about to be, used in the smuggling of any goods or in the carriage of any goods which have been smuggled, he may at any time stop any such vehicle, animal or vessel or, in the case of an aircraft, compel it to land, and—

(*a*) rummage and search any part of the aircraft, vehicle or vessel,

(*b*) examine and search any goods in the aircraft, vehicle or vessel or on the animal

(*c*) break open the lock of any door or package for exercising the powers conferred by clauses (*a*) and (*b*), if the keys are withheld

(2) Where for the purposes of sub-section (1) —

(*a*) it becomes necessary to stop any vessel or compel any aircraft to land, it shall be lawful for any vessel or aircraft in the service of the Government while flying her proper flag and any authority authorised in this behalf by the Central Government to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognized means, and thereupon such vessel shall forthwith stop or such aircraft shall forthwith land, and if it fails to do so, chase may be given thereto by any vessel or aircraft as aforesaid and if after a gun is fired as a signal the vessel fails to stop or the aircraft fails to land, it may be fired upon,

(*b*) it becomes necessary to stop any vehicle or animal, the proper officer may use all lawful means for stopping it, and where such means fail, the vehicle or animal may be fired upon.

107. Power to examine persons.

Any officer of customs empowered in this behalf by general or special order of the Collector of Customs may, during the course of any enquiry in connection with the smuggling of any goods,—

(*a*) require any person to produce or deliver any document or thing relevant to the enquiry,

(*b*) examine any person acquainted with the facts and circumstances of the case

* * * *

108. Power to summon persons to give evidence and produce documents.

(1) Any gazetted officer of customs * * * * * shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making in connection with the smuggling of any goods

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct, and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908 (5 of 1908), shall be applicable to any requisition for attendance under this section

(4) Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860)

109. Power to require production of order permitting clearance of goods imported by land

Any officer of customs appointed for any area adjoining the land frontier of India and empowered in this behalf by general or special order of the Board, may require any person in possession of any goods which such officer has reason to believe to have been

imported into India by land, to produce the order made under section 47 permitting clearance of the goods

Provided that nothing in this section shall apply to any imported goods passing from a land frontier to a land customs station by a route appointed under clause (*c*) of section 7.

110 Seizure of goods, documents and things

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods.

Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer

(2) Where any goods are seized under sub-section (1) and no notice in respect thereof is given under clause (*a*) of section 124 within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the Collector of Customs for a period not exceeding six months

(3) The proper officer may seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

CHAPTER XIV

CONFISCATION OF GOODS AND CONVEYANCES AND IMPOSITION OF PENALTIES

111. Confiscation of improperly imported goods, etc

The following goods brought from a place outside India shall be liable to confiscation —

(*a*) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port

or customs airport appointed under clause (*a*) of section 7 for the unloading of such goods,

(*b*) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (*e*) of section 7 for the import of such goods,

(*c*) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port,

(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force,

(*e*) any dutiable or prohibited goods found concealed in any manner in any conveyance,

(*f*) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned,

(*g*) any duitable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (*2*) of section 45,

(*h*) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34,

(*i*) any duitable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof,

(*j*) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission,

(*k*) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein,

(*l*) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77,

(*m*) any dutiable or prohibited goods which do not correspond in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof,

(*n*) any dutiable or prohibited goods transited with or without transhipment or attempted to be so transitted in contravention of the provisions of Chapter VIII,

(*o*) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed unless the non-observance of the condition was sanctioned by the proper officer

Penalty for improper importation of goods, etc.

112 Any person,—

* * * *

(*a*) who in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or ommission of such an act, or

(*b*) who acquires possession of or is in any way concerned in carrying removing, depositing, harbouring, keeping concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

Shall be liable,—

(*i*) in the case of goods in respect of which any prohibition is in force under this act are any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater,

(*ii*) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater

Confiscation of goods attempted to be improperly exported, etc.

113 The following export goods shall be liable to confiscation —

(*a*) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods,

(*b*) any goods attempted to be exported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the export of such goods,

(*c*) any dutiable or prohibited goods brought near the land frontier or the coast of India or near any bay, gulf, creek or tidal river for the purpose of being exported from a place other than a land-customs station or a customs port appointed for the loading of such goods,

(*d*) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force,

(*e*) any dutiable or prohibited goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation,

(*f*) any dutiable or prohibited goods which are loaded or attempted to be loaded contravention of the provisions of section 33 or section 34,

(*g*) any dutiable or prohibited goods loaded or attempted to be loaded on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer,

(*h*) any dutiable prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77,

(*i*) any dutiable or prohibited goods which do not correspond in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof,

(*j*) any goods on which import duty has not been paid and which are entered for exportation under a claim for drawback under section 74,

(*k*) any goods cleared for exportation under a claim for drawback which are not loaded for exportation on account of any wilful act, negligence or default of the exporter, his agent or employee, or which after having been loaded for exportation are unloaded without the permission of the proper officer

Penalty for attempt to export goods improperly, etc.

114. Any person* * * * * * who, in relation to any goods does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable,—

(*i*) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is greater,

(*ii*) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater,

(*iii*) in the case of goods under claim for drawback claimed to a penalty not exceeding five times the amount of drawback claimed or one thousand rupees, whichever is the greater

Confiscation of conveyances.

115 (*1*) The following conveyances shall be liable to confiscation —

(*a*) any vessel which is or has been within the Indian customs waters, any aircraft which is or has been in India, or any vehicle which is or has been in a customs area,
while constructed, adopted, altered or fitted in any manner for the purpose of concealing goods,

(*b*) any conveyance from which the whole or any part of the goods is thrown over board, staved or destroyed so as to prevent seizure by an officer of customs,

(*c*) any conveyance which have been required to stop or land under section 106 fails to do so, except for good and sufficient cause,

(*d*) any conveyance from which any warehoused goods cleared for exportation or any other goods cleared for exportation under a claim for drawback, are unloaded, without the permission of the proper officer,

(*e*) any conveyance carrying imported goods which has entered India and is afterwards found with the whole or substantial

portion of such goods missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the goods.

(2) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any and the person in charge of the conveyance or animal and that each of them had taken all such precautions against such use as are for the time being specified in the rules.

Provided that where any such conveyance is used for the carriage of goods or passengers for hire, the owner of any conveyance shall be given an option to pay in lieu of the confiscations of the conveyance a fine not exceeding the market price of the goods which are sought to be smuggled or the smuggled goods, as the case may be.

Explanation.—In this section, "market price" means market price at the date when the goods are seized

Penalty for not accounting for goods.

116. If any goods loaded in a conveyance for importation into India, or any goods transhipped under the provisions of this Act or coastal goods carried in a conveyance, are not unloaded at their place of destination in India or if the quantity unloaded is short of the quantity to be unloaded at that destination, and if the failure to unload or the deficiency is not accounted for to the satisfaction of the Assistant Collector of Customs, the person-in-charge of the conveyance shall be liable,—

(*a*) in the case of goods loaded in a conveyance for importation into India or goods transhipped under the provisions of this Act, to a penalty not exceeding twice the amount of duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been imported,

(*b*) in the case of coastal goods, to a penalty not exceeding twice the amount of export duty that would have been chargeable on the goods not unloaded or the deficient goods, as the case may be, had such goods been exported

Penalties for contravention, etc., not expressly mentioned.

117 Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding one thousand rupees.

Confiscation of packages and their contents.

118 (*a*) Where any goods imported in a package are liable to confiscation, the package and any other goods imported in that package shall also be liable to confiscation.

(*b*) Where any goods are brought in a package within the limits of a customs area for the purpose of exportation and are liable to confiscation, the package and any other goods contained therein shall also be liable to confiscation

Confiscation of goods used for concealing smuggled goods.

119. Any goods used for concealing smuggled goods shall also be liable to confiscation.

Explanation.—In this section, "goods" does not include a conveyance used as a means of transport

Confiscation of smuggled goods notwithstanding any change in form, etc.

120 (1) Smuggled goods may be confiscated notwithstanding any change in their form.

(2) Where smuggled goods are mixed with other goods in such manner that the smuggled goods cannot be separated from such other goods, the whole of the goods shall be liable to confiscation.

Provided that where the owner of such goods proves that he had no knowledge or reason to believe that they included any smuggled goods, only such part of the goods the value of which is equal to the value of the smuggled goods shall be liable to confiscation

Confiscation of sale-proceeds of smuggled goods

121 Where any smuggled goods are sold by a person having knowledge or reason to believe that the goods are smuggled goods, the sale-proceeds thereof shall be liable to confiscation.

djudicatıon of confiscatıons and penalties

122 In every case under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged,—

(*a*) without limit, by a Collector of Customs or a Deputy Collector of Customs,

(*b*) where the value of the goods liable to confiscation does not exceed ten thousand rupees and where the penalty proposed to be imposed does not exceed two thousand rupees, by an Assistant Collector of Customs;

(*c*) where the value of the goods liable to confiscation does not exceed one thousand rupees and where the penalty proposed to be imposed does not exceed two hundred rupees, by a gazetted officer of customs lower in rank than an Assistant Collector of Customs.

Burden of proof in certain cases

123 (1) Where any goods to which this section applies are seized under this Act in the reasonable belief that they are smuggled goods, the burden of proving that they are not smuggled goods shall be on the person from whose possession the goods were seized.

(2) This section shall apply to gold, diamonds, manufactures of gold or diamonds, watches, and any other class of goods which the Central Government may by notification in the Official Gazette specify

Issue of show cause notice before confiscation of goods, etc.

124 No order confiscating any goods or imposing any penalty on any person shall be made under this Chapter unless the owner of the goods or such person—

(*a*) is given a notice in writing informing him of the grounds on which it is proposed to confiscate the goods or to impose a penalty,

(*b*) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation or imposition of penalty mentioned therein, and

(*c*) is given a reasonable opportunity of being heard in the matter.

Provided that the notice referred to in clause (*a*) and the representation referred to in clause (*b*) may, at the request of the person concerned be oral

125 Option to pay fine in lieu of confiscation.—

(1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit

Provided that, without prejudice to the provisions of the proviso to sub section (2) of section 115, such fine shall not exceed the market price of the goods confiscated, less in the case of imported goods the duty chargeable thereon.

(2) For the removal of doubts it is hereby declared that any fine in lieu of confiscation of goods imposed under sub-section (1) shall be in addition to any duty and charges payable in respect of such goods

126. On confiscation, property to vest in Central Government —

(1) when any goods are confiscated under this Act, such goods shall thereupon vest in the Central Government

(2) The officer adjudging confiscation shall take and hold possession of the confiscated goods.

127. Award of confiscation or penalty by customs officers not to interfere with other punishments —

The award of any confiscation or penalty under this Act by an officer of customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of Chapter XVI of this Act or under any other law

CHAPTER XV

APPEALS AND REVISION

128. Appeals —

(1) Any person aggrieved by any decision or order passed under this Act may, within three months from the date of the communication to him of such decision or order—

(*a*) where the decision or order has been passed by a Collector of Customs, appeal to the Board ,

(*b*) where the decision or order has been passed by an officer of customs lower in rank than a Collector of Customs, appeal to the Appellate Collector of Customs.

* * * * * * *

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2) The Appellate Authority may, after giving an opportunity to the appellant to be heard, if he so desires, and making such further inquiry as may be necessary, pass such order as it thinks fit, confirming, modifying or annulling the decision or order appealed against

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall not be passed—

(a) by an Appellate Collector of Customs ,

(*b*) by the Board unless the appellant has been given a reasonable opportunity of showing cause against the proposed order.

Provided further that where the Appellate Authority is of opinion that any duty of customs has been short-levied, no order enhancing the duty shall * * * * be passed unless the appellant is given notice within the time-limit specified in * * section 28 to show cause against the proposed order

129. Deposit, pending appeal, of duty demanded or penalty levied.—

(1) Where the decision or order appealed against relates to any duty demanded in respect of goods which are not under the control

of customs authorities or any penalty levied under this Act, any person desirous of appealing against such decision or order shall, pending the appeal, deposit with the proper officer the duty demanded or the penalty levied

Provided that where in any particular case the appellate authority is of opinion that the deposit of duty demanded or penalty levied will cause undue hardship to the appellant, it may in its discretion dispense with such deposit, either unconditionally or subject to such conditions as it may deem fit.

(2) If upon any such appeal it is decided that the whole or any portion of such duty or penalty was not leviable, the proper officer shall return to the appellant such amount of duty or penalty as was not leviable

130. Powers of revision of Board —

(1) The Board may of its own motion or on the application of any aggrieved person call for and examine the record of any proceeding in which an officer of customs has passed any decision or order under this Act (not being an order passed in appeal under section 128) for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may pass such order thereon as it thinks fit

Provided that no order * * * enhancing any * * penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section unless the person affected by the proposed order has been given a reasonable opportunity of showing cause against it:

Provided further that where the Board is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall * * * * * * * be made unless the person affected by the proposed order is given notice to show cause against it within the time-limit specified in * * section 28

* * *

(2) No decision or order passed by an officer of customs shall be revised under this section by the Board * * of its * * own motion and no application for the revision of any such decision or order shall be entertained, after the expiry of two years from the date of such decision or order.

Revision by Central Government.

131. (*1*) The Central Government may, on the application of any person aggrieved by

(*a*) any order passed under section 128, or

(*b*) any order passed under section 130 otherwise than on the application of any aggrieved person, or

(*c*) any order passed on the application of any aggrieved person under section 130 where the order is of the nature referred to in either of the provisos to sub-section (*1*) of that section.

annual or modify such order

* * * *

(*2*) An application under sub-section (*1*) shall be made within six months from the date of the communication to the applicant of the order against which the application is being made.

Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of six months.

(*3*) The Central Government may of its own motion annual or modify any order passed under section 128 or section 130

(*4*) No order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall be passed under this section—

(*a*) in any case in which an order passed under section 128 or section 130 has enhanced any penalty or fine in lieu of confiscation or has confiscated goods of greater value, and

(*b*) in any other case, unless the person affected by the proposed order has been given notice to show cause against it, within one year from the date of the order sought to be annulled or modified

(*5*) Where the Central Government is of opinion that any duty of customs has not been levied or has been short-levied, no order levying or enhancing the duty shall be made under this section, unless the person affected by the proposed order is given notice to show cause against it with the time limit specified in section 28

CHAPTER XVI

OFFENCES AND PROSECUTIONS

False declaration, false documents, etc.

132 Whoever makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to the customs, knowing or having reason to believe that such declaration, statement or document is false in any material particular, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Obstruction of officer of customs.

133 If any person intentionally obstructs any officer of customs in the exercise of any powers conferred under this Act, such person shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both

Refusal to be X-rayed.

134 If any person—

(a) resists or refuses to allow a radiologist to screen or to take X-ray picture of his body in accordance with an order made by a magistrate under section 103, or

(*b*) resists or refuses to allow suitable action being taken on the advice and under the supervision of a registered medical practitioner for bringing out goods liable to confiscation secreted inside his body, as provided in section 103,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both

Evasion of duty or prohibitions

135 Without prejudice to any action that may be taken under this Act, if any person—

(a) is in relation to any goods in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition

for the time being imposed under this Act or any other law for the time being in force with respect to such goods, or

(*b*) acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

he shall be publishable,—

(i) in the case of an offence relating to any of the goods to which section 123 applies and the market price whereof exceeds one lakh of rupees, with imprisonment for a term which may extend to five years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than six months;

(ii) in any other case, with imprisonment for a term which may extend to two years, or with fine, or with both.

Offences by officers of customs.

136 (1) If any officer of customs enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any duty of customs leviable on any goods, or any prohibition for the time being in force under this Act or any other law for the time being in force with respect to any goods, is or may be evaded, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(2) If any officer or customs,—

(a) requires any person to be searched for goods liable to confiscation or any document relating thereto, without having reason to believe that he has such goods or document secreted about his person, or

(b) arrests any person without having reason to believe that he has been guilty of an offence punishable under section 135, or

(c) searches or authorises any other officer of customs to search any place without having reason to believe that any goods, documents or things of the nature referred to in section 105 are secreted in that place,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

(3) If any officer of customs, except in the discharge in good faith of his duty as such officer or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any goods, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Cognizance of officers.

137 (1) No court shall take cognizance of any offence under section 132, section 133, section 134 or section 135, except with the previous sanction of the Collector of Customs

(2) No court shall take cognizance of any offence under section 136,—

(a) where the offence is alleged to have been committed by an officer of customs not lower in rank than Assistant Collector of Customs, except with the previous sanction of the Central Government,

(b) where the offence is alleged to have been committed by an officer of customs lower in rank than Assistant Collector of Customs, except with the previous sanction of the Collector of Customs.

Offences to be tried summarily.

138 Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this Chapter other than an offence punishable under clause (i) of section 135 may be tried summarily by a magistrate.

Presumption as to documents in certain cases.

139 Where any document is produced by any person under this Act or has been seized under this Act from the custody or

control of any person, and such document is tendered by the prosecution in evidence against him, the court shall,—

(a) unless the contrary is proved by any such person, presume—

(i) the truth of the contents of such document,

(ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested that it was executed or attested by the person by whom it purports to have been so executed or attested,

(b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Offences by companies

140 (1) If the person committing an offence under this Chapter is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Chapter if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals, and

(*b*) "director", in relation to a firm, means a partner in the firm

CHAPTER XVII

MISCELLANEOUS

Conveyances and goods in a customs area subject to control of officers of customs

141 All conveyances and goods in a customs area shall, for the purpose of enforcing the provisions of this Act, be subject to the control of officers of customs

Recovery of sums due to Government.

142 (1) Where any duty demanded from any person or any penalty payable by any person under this Act is not paid,—

(*a*) the proper officer may deduct or may require any other officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other officer of customs, or

(*b*) the Assistant Collector of Customs may recover or may require any other officer of customs to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the Assistant Collector of Customs or such other officer of customs, or

(*c*) if the amount cannot be recovered from such person in the manner provided in clause (*a*) or clause (*b*), the Assistant Collector of Customs may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from the said person the amount specified thereunder as if it were an arrear of land revenue.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section

Power to allow import or export on execution of bonds in certain cases.

143 (1) Where this Act or any other law requires anything to be done before a person can import or export any goods or clear any goods from the control of officers of customs and the Assistant Collector of Customs is satisfied that having regard to the circumstances of the case, such thing cannot be done before such import, export or clearance without detriment to that person, the Assistant Collector of Customs may, notwithstanding anything contained in this Act or such other law, grant leave for such import, export or clearance on the person executing a bond in such amount, with such surety or security and subject to such conditions as the Assistant Collector of Customs approves, for the doing of that thing within such time after the import, export or clearance as may be specified in the bond.

(2) If the thing is done within the time specified in the bond, the Assistant Collector of Customs shall cancel the bond as discharged in full and shall, on demand, deliver it, so cancelled, to the person who has executed or who is entitled to receive it, and in such a case that person shall not be liable to any penalty provided in this Act or, as the case may be, in such other law for the contravention of the provisions thereof relating to the doing of that thing.

(3) If the thing is not done within the time specified in the bond, the Assistant Collector of Customs shall, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, be entitled to proceed upon the bond in accordance with law.

Power to take samples.

144 (1) The proper officer may, on the entry or clearance of any goods or at any time while such goods are being passed through the customs area, take samples of such goods in the presence of the owner thereof, for examination or testing, or for ascertaining the value thereof, or for any other purposes of this Act.

(2) After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the owner, but if the owner fails to take delivery of the sample within three months of the date on which the sample was taken, it may be disposed of in such manner as the Collector of Customs may direct.

(3) No duty shall be chargeble on any sample of goods taken under this section which is consumed or destroyed during the course of any test or examination thereof, if such duty amounts to five rupees or more

Owner, etc., to perform operations incidental to compliance with customs law.

145 All operations necessary for making any goods availabl for examination by the proper officer or for facilitating such examination shall be performed by, or at the expense of, the owner-importer or exporter of the goods, as the case may be

Custom house agents to be licensed.

146. (1) No person shall carry on business as an agent relating to the entry or departure of a conveyance or the import or export of goods at any customs-station unless such person holds a licence granted in this behalf in accordance with the regulations

(2) The Board may make regulations for the purpose of carrying out the provisions of this section and, in particular, such regulations may provide for—

(*a*) the authority by which a licence may be granted under this section and the period of validity of any such licence,

(*b*) the form of the licence and the fees payable therefor,

(*c*) the qualifications of persons who may apply for a licence and the qualifications of persons to be employed by a licensee to assist him in his work as an agent,

(*d*) the restrictions and conditions (including the furnishing of security by the licensee) subject to which a licence may be granted,

(*e*) the circumstances in which a licence may be suspended or revoked, and

(*f*) the appeals, if any, against an order of suspension or revocation of a licence, and the period within which such appeals shall be filed

Liability of principal and agent.

147 (1) Where this Act requires anything to be done by the owner, importer or exporter of any goods, it may be done on his behalf by his agent

(2) Any such thing done by an agent of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter, so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself

(3) When any person is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes

Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than any wilful act, negligence or default of the agent, such duty shall not be recovered from the agent unless in the opinion of Assistant Collector of Customs the same cannot be recovered from the owner, importer or exporter

Liability of agent appointed by the person in charge of a conveyance.

148 (1) Where this Act requires anything to be done by the person in charge of a conveyance, it may be done on his behalf by his agent

(2) An agent appointed by the person in charge of a conveyance and any person who represents himself to any officer of customs as an agent of any such person in charge, and is accepted as such by that officer, shall be liable for the fulfilment in respect of the matter in question of all obligations imposed on such person in charge by or under this Act or any law for the time being in force, and to penalties and confiscations which may be incurred in respect of that matter

Amendment of documents

149. Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the customs house to be amended:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be

Procedure for sale of goods and application of sale-proceeds

150 (1) Where any goods not being confiscated goods are to be sold under any provisions of this Act, they shall, after notice to the owner thereof, be sold by public auction or by tender or with the consent of the owner in any other manner

(2) The proceeds of any such sale shall be applied—

(*a*) firstly to the payment of the expenses of the sale

(*b*) next to the payment of the freight and other charges, if any, payable in respect of the goods sold, to the carrier, if notice of such charges has been given to the person having custody of the goods,

(*c*) next to the payment of the duty, if any, on the goods sold,

(*d*) next to the payment of the charges in respect of the goods sold due to the person having the custody of the goods,

(*e*) next to the payment of any amount due from the owner of the goods to the Central Government under the provisions of this Act or any other law relating to customs,

and the balance, if any, shall be paid to the owner of the goods

Certain officers required to assist officers of customs.

151. The following officers are hereby empowered and required to assist officers of customs in the execution of this Act, namely —

(*a*) officers of the Central Excise Department,

(*b*) officers of the Navy,

(*c*) officers of Police,

(*d*) officers of the Central or State Governments employed at any port or airport,

(*e*) such other officers of the Central or State Government or a local authority as are specified by the Central Government in this behalf by notification in the Official Gazette

Delegation of powers

152 The Central Government may, by notification in the Official Gazette, direct that subject to such conditions, if any, as may be specified in the notification—

(*a*) any power exercisable by the Board under this Act shall be exercisable also by a Collector of Customs empowered in this behalf by the Central Government,

(*b*) any power exercisable by a Collector of Customs under this Act may be exercisable also by a Deputy Collector of Customs or an Assistant Collector of Customs empowered in this behalf by the Central Government,

(*c*) any power exercisable by a Deputy Collector of Customs under this Act may be exercisable also by an Assistant Collector of Customs empowered in this behalf by the Central Government,

(*d*) any powers exercisable by an Assistant Collector of Customs under this Act may be exercisable also by a gazetted officer of Customs empowered in this behalf by the Board

Service of order, decision, etc

153 Any order or decision passed or any sommons or notice issued under this Act, shall be served—

(*a*) by tendering the order, decision, summons or notice or sending it by registered post to the person for whom it is intended or to his agent, or

(*b*) if the order, decision, summons or notice cannot be served in the manner provided in clause (*a*), by affixing it on the notice Board of the Customs house

Correction of clerical errors, etc

154. Clerical or arithmetical mistakes in any decision or order passed by the Central Government, the Board or any officer of customs under this Act, or errors arising therein from any accidental

slip or omission may, at any time, be corrected by the Central Government, the Board or such officer of customs or the successor in office of such officer, as the case may be

Protection of action taken under the Act.

155 (1) No suit, prosecution or other legal proceeding shall lie against the Central Government, or any officer of the Government or a local authority for anything which is done, or intended to be done in good faith, in pursuance of this Act, or the rules or regulations

(2) No proceeding other than a suit shall be commenced against the Central Government or any officer of the Government or a local authority for anything purporting to be done in pursuance of this Act without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause

General power to make rules.

156 (1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the manner of determining the nearest ascertainable eqivalent of the normal price of any goods ,

(*b*) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article ,

(*c*) the precautions that shall be taken by the owner, his agent and the person-in-charge of any conveyance or animal for the purposes of sub-section (2) of section 115 ,

(*d*) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;

(*e*) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention ,

(*f*) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed

General power to make regulations.

157 (1) Without prejudice to any power to make regulations contained elsewhere in this Act, the Board may make regulations consistent with this Act and the rules, generally to carry out the purposes of this act

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely —

(*a*) the form of a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export, report, bill of transhipment, boat note and bill of coastal goods ,

(*b*) the conditions subject to which the transhipment of all or any goods under sub-section (3) of section 54, the transportation of all or any goods under section 56 and the removal of warehoused goods from one warehouse to another under sections 67 may be allowed without payment of duty ,

(*c*) the conditions subject to which any manufacturing process or other operations may be carried on in a warehouse under section 65

158 Provisions with respect to rules and regulations

(1) All rules and regulations made under this Act shall be published in the Official Gazette.

(2) Any rule or regulation which the Central Government or the Board is empowered to make under this Act may provide—

(*i*) for the levy of fees in respect of applications, amendment of documents, furnishing of duplicates of documents, issue of certificates, and supply of statistics,

and for rendering or any services by officers of customs under this Act,

(*ii*) that any person who contravenes any provision of a rule or regulation or abets such contravention or any person who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable,—

(*a*) in the case of contravention or failure to comply with a rule, to a penalty which may extend to five hundred rupees,

(*b*) in the case of contravention or failure comply with a regulation, to a penalty which may extend to two hundred rupees

159 Rules and certain notifications to be laid before Parliament —

Every rule made under this Act and every notification issued under sections—11, 14, 25, 43, 66, 69, 70, 74, 75, 76, 98, 101 and 123 shall be laid as soon as may be after it is made or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification

160. Repeal and savings

(1) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof

(2) In the Indian Tariff Act, 1934 (32 of 1934)—

(*a*) for section 2, the following section shall be substituted namely

Duties specified in the Schedules to be levied

"2 The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules",

(*b*) sections 5 and 6 shall stand repealed

(3) Notwithstanding the repeal of any enactment by this section,—

(*a*) any notification, rule, regulation, order or notice issue or any apponitment or declaration made or any licence, permission or exemption granted or any assessment made, confiscation adjudged or any duty levied or any penalty or fine imposed or any forfeiture, cancellation or discharge of any bond ordered or any other thing done or any other action taken under any repealed enactment shall, so for as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act

(*b*) any document referring to any enactment hereby repealed shall be construed as referring to this Act or ot the corresponding provision of this Act

(4) This Act shall apply to all goods which are subject to the control of customs at the commencement of this Act notwithstanding that the goods were imported before such commencement

(5) Where the period peresclibed for any application, appeal, revision or other proceeding under any repealed enactment had expired on or before the commencement of this Act, nothing in this Act, shall be construed as enabling any such application, appeal or revision to be made or a proceding to be instituted under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extenison of time in suitable cases by the appropriate authority

(6) The provisions of section 65 shall apply to goods warehoused before the commencement of this Act if the operations permissible under that section were carried on after such commencement

(7) Any duty or penalty payable under any repealed enactment may be recovered in a manner provided under this Act but without prejudice to any action already taken for the recovery of such duty or penalty under the repealed enactment

(8) The mention of particular matters in sub-sections (4), (5), (6) and (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals

(9) Nothing in this Act shall affect any law for the time being in force relating to the constitution and powers of any Port authority in a major port as defined in the Indian Ports Act, 1908 (15 of 1908)

Removal of defficulties.

161 If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act, the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to be necessary or expedient for the purpose of removing the difficulty

THE SCHEDULE

(*See* section 160)

REPEALS

Year	No	Short title	Extent of repeal
1	2	3	4
1878	8	The Sea Customs Act	The whole
1896	8	The Inland Bonded Warehouses Act	The whole
1924	19	The Land Customs Act	The whole
1934	22	The Aircraft Act	Section 16.

M. N KAUL,
Secretary.

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